

18 JUL 2003

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In re Application of :
GAJEWICZYK, Diana M. et al :
U.S. Application No.: 09/786,235 :
PCT No.: PCT/CA00/00807 :
Int. Filing Date: 03 September 1999 :
Priority Date: 04 September 1998 :
Attorney Docket No.: 1038-1129 MIS:jb :
For: TREATMENT OF CERVICAL CANCER :

DECISION

This decision is in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 07 July 2003.

BACKGROUND

On 28 April 2003, a decision granting applicants' petition to revive the application pursuant to 37 CFR 1.137(b) was mailed. However, applicants' petition under 37 CFR 1.47(a) was dismissed for failing to meet the requirements of items (2) and (4).

On 07 July 2003, applicants submitted the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a "Declaration Under 37 CFR 1.47(a)" ("Decl.") of Reza Yacoob; a copy of an email from Federal Express; a copy of an executed Assignment; and a copy of a letter dated 12 September 2001 to the nonsigning co-inventor, Diane M. Gajewczyk.

DISCUSSION

In the prior decision, it was noted that the 37 CFR 1.47(a) applicant failed to satisfy item (2) of 37 CFR 1.47(a) in the prior petition. Specifically, the 37 CFR 1.47(a) applicant failed to provide the requisite documentary evidence to show that a complete copy of the application was received by the nonsigning co-inventor.

In the renewed petition, applicants included a declaration by Mr. Yacoob who states that a complete copy of the application was mailed on 29 March 2001 to Ms. Gajewczyk. Decl. at ¶ 3. The 37 CFR 1.47(a) applicant included a copy of an email from Federal Express stating that a shipment was delivered to Dr. Gajewczyk and signed for on 06 April 2001. Mr. Yacoob claims that the declaration was returned unsigned in August 2001 along with a signed assignment. *Id.* at ¶ 4.

Then, Mr. Yacoob declares that another declaration was mailed to Ms. Gajewczyk's new address on 12 September 2001 along with a request that she return the declaration signed. *Id.* at ¶ 5. Mr. Yacoob claims that the declaration has not been returned. A copy of the letter dated 12 September 2001 was also submitted. The documentary evidence and declaration of Mr. Yacoob are sufficient to satisfy the requirements of section 409.03(d) of the Manual of Patent Examining Procedure. Thus, item (2) of 37 CFR 1.47(a) is satisfied.

Regarding item (3), applicants state that the new address of the nonsigning inventor is:

Diane M. Gajewczyk
61 Pinnacle Trail
Aurora, Ontario L4G 7G6
Canada

This information satisfies item (3).

It was noted in the prior decision that the declaration provided on 20 March 2002 did not meet the requirements of 37 CFR 1.497(a) and (b) because applicants submitted one complete declaration and a portion of another declaration. The declaration contained only one pages 1, 2, 3 and 4, but two page 5's. The 37 CFR 1.47(a) applicant was requested to provide a complete copy of the declaration signed by each co-inventor to satisfy item (4) of 37 CFR 1.47(a).

In the renewed petition, the 37 CFR 1.47(a) applicant provided another partial declaration containing one pages 1, 2, 3 and 4, but two page 5's. As stated above, this declaration does not comply with 37 CFR 1.497(a) and (b). Moreover, it is noted that the declaration submitted on 20 March 2002 has two different post office addresses for Benjamin Rovinski. Thus, the declaration also does not meet the requirements of 37 CFR 1.63(c)(1).

Therefore, item (4) is still not satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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